THE HON'BLE SRI JUSTICE C.V. RAMULU

Friday, 10th day of August,2007

W.P.No.27539 of 2005

Between:-

The Depot Manager, APSRTC,
Ananthapur … Petitioner

and

The Industrial Tribunal-cum-
Labour Court, Ananthapur and another … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.27539 of 2005

ORAL ORDER:

This Writ Petition is filed seeking a Certiorari to call for the records relating to the Award dated 28-7-2005 made in I.D.No.194 of 2003 on the file of Industrial Tribunal-cum-Labour Court, Ananthapur and to quash the same as arbitrary and illegal.

Petitioner is the Management of A.P. State Road Transport Corporation and 2nd respondent is the workman.

It appears, against the 2nd respondent, a charge was framed that he had permitted one Chandra Naik at Kammavaripalli village to decane 35 Litres of HSD Oil from the DGZ AEZ 3224 of Ananthapur Depot into a plastic cane through a plastic pipe at about 00.45 hours on 12-5-1999, which was detected by the Chief Inspector, Cuddapah. After conducting a detailed enquiry into the said charge, 2nd respondent was removed from service by an Order dated 23-9-1999 and the appeal filed by him before the Divisional Manager was also rejected on 23-5-2003. Therefore, he had raised a dispute under Section 2-A(2) of the Industrial Disputes Act,1947 before the Industrial Tribunal-cum-Labour Court, Ananthapur.

It was the case of the workman before the Labour Court that the enquiry was not properly conducted and he was not given sufficient opportunity to defend himself and absolutely, there was no evidence to prove that he had permitted anybody to decane 35 Ltrs of HSD oil. Even

assuming that the charge is proved, it is trivial in nature and as such, the punishment of removal from service is disproportionate to that of the misconduct alleged against him. The Management filed a detailed counter before the Labour Court denying the allegations made by the workman. It was asserted that the workman was given full and fair opportunity to defend himself and the charge is proved in full and as such, the order of removal from service is just and proper.

Before the Labour Court, no oral evidence was adduced by either side. But, Exs.W1 to W4 were marked on behalf of the workman and Exs.M1 to M19 were marked for the Management. After appreciation of the entire material placed before it, the Labour Court came to the conclusion that the charge was not proved and ultimately, directed reinstatement of the workman with continuity of service and attendant benefits, but without any back wages. Aggrieved by the same, the Management filed the present Writ Petition.

Learned counsel for the petitioner strenuously contended that the Labour Court failed to appreciate the fact that once the domestic enquiry is not challenged and was held to be valid, the scope for appreciation of evidence does not arise. Even otherwise, the findings of the Labour Court are not cogent and had simply stated that the security personnel allowed the illegal act of the said Chandra Naik, who was a stranger and he was not caught hold of and why he was not apprehended is not known. The reason furnished by the security personnel that due to apprehension from the stray dogs, they did not follow the culprit and could not catch him ought to have been accepted by the Labour Court. Therefore, the Award passed by the Labour Court is arbitrary and illegal.

Whereas, learned counsel for the 2nd respondent supported the Award passed by the Labour Court and submitted that absolutely, there is no evidence and even if there is an iota of evidence, there is no

coherence in between the evidence of one witness and the other, and also the statements of the security personnel, who said to have tried to apprehend the culprit. Under those circumstances, the Labour Court rightly came to the conclusion that the workman cannot be blamed and he cannot be made responsible for the loss of HSD Oil from the vehicle. The reasons furnished by the Labour Court are very cogent and do not call for interference of this Court.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and gone through the impugned Award and other material made available on record.

It was found by the Labour Court that the vehicle was a goods vehicle and the very stopping of the vehicle at Kammavaripalli itself was not warranted by the Driver. Further, it is the case of the security personnel that they chased the culprit, but could not catch hold of him and they did not go into the village in the night as they are afraid of stray dogs. This story of the security personnel was not believed. I am of the opinion that rightly the Labour Court has not believed. A person carrying with 35 Litres of HSD Oil in a plastic cane could not have escaped with such a speed, not being caught hold of by the security personnel, if they are really sincere to catch him. Apart from this, absolutely, though the workman served for more than 30 years in the Corporation, there was no allegation of misconduct etc., against him. It seems, under those circumstances, while exercising its powers under Section-11A of the Act, the Labour Court found that the order of removal from service is not warranted and, therefore, directed the Management to reinstate the workman into service with continuity of service and attendant benefits, but without any back wages. Respondent No.2 was removed from service on 23-9-1999 and the appeal was rejected on 23-

5-2003. He raised the industrial dispute in the year 2003 and the same was disposed of on 28-7-2005. In the meanwhile, the workman attained the age of superannuation and retired from service. For all these reasons, I am of the view that the Labour Court has not committed any error calling for interference of this Court under Article 226 of the Constitution of India. The Writ Petition is devoid of any merit and is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. The petitioner-Management shall implement the Award passed by the Labour Court and settle all the retiral benefits due to the workman, within a period of six weeks from the date of receipt of a copy of this order. No order as to costs.

10-8-2007

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